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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,771	10/01/2003	James J. Burnes	2312	9130

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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/677,771

Applicant(s)

BURNES ET AL.

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 51 and 52 is/are allowed.
- 6) ☒ Claim(s) 35-39, 43, and 47 is/are rejected.
- 7) ☒ Claim(s) 40-42, 44-46 and 48-50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on June 06, 2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-39, 43, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carswell et al. in view of either of Ditullio '482 or Maestro United States Patent Application Publication 2002/0025226, (Maestro '226).

Carswell discloses, Figs. 1, 5, and 6, an "end cap" for closing off the open end of an arch shape cross section leaching chamber or storm water chamber, having x, y and z axes, which comprises: an arch shape first end, (as where lead line of 36 points), lying in a vertical y-z plane, for mating the end cap with the end of a chamber; a second end, (lower horizontal portion of the opposite end thereof), lying in horizontal x-y plane, for supporting the end cap on a surface, having a curved contour which runs outwardly from the plane of the first end,

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(inherently runs outwardly since it extends outwardly from the first end); a shell having a convex shape exterior surface, (the surface 34/32), connecting the first end and the second end; and, at least two buttresses, (32, 36), projecting outwardly from the exterior surface of the shell, the first buttress 32 lying along the x-axis; the second buttresses 36 disposed on one side of the shell relative to the first buttress 32; each buttress comprising a surface portion shaped for receiving a pipe through which water may be flowed to or from the interior of the end cap; wherein each buttress surface portion faces in a horizontal plane direction which is different from the other. Carswell does not appear to specifically disclose a third buttress section on a side of buttress 32 opposite to that of buttress 36.

However, each of Ditullio '482 and Maestro '226 teach providing a "side deck" or opening along each of two sides to allow for runoff in two directions, T3 of Ditullio and 38 of Maestro '226.

Therefore, to have provided a "side deck" or opening along each of two sides of the Carswell chamber, (i.e., provide a third buttress on a side of buttress 32 opposite to that of buttress 36), thus allowing for runoff in two directions, would have constituted an obvious expedient to one having ordinary skill in the art at the time the invention was made as taught by either of Ditullio '482 or Maestro '226, (as well as Carswell et al. at page 2, lines 31-38).

As for claim 37, each buttress of the modified Carswell end cap would inherently extend upwardly from the "second end", (i.e., extend upwardly from the lower portion of the second end).

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As for claim 38, each buttress of Carswell has the shape of a truncated triangle with a curved apex. (Shape of the Carswell buttress 32, 36 appears as that of the instant application thus, inherently possesses the shape of a truncated triangle with a curved apex).

As for claim 39, resulting surface portions of the second and third buttresses 36 of Carswell would face in opposing directions, each direction at an about 90 degree angle to the direction of the first buttress 32 surface portion.

As for claim 43, Carswell does not specifically disclose a plurality of circumferential reinforcing members of rib-like configuration formed on the elongated wall body for reinforcing structural strength thereof. However, each of Ditullio '482 and Maestro '226 teach application of circumferential reinforcing ribs around and along drainage tubes to provide for a sturdy assembly, R1-R22 of Ditullio '482 and 18 of Maestro '226. Therefore, to have provided the Carswell et al. drainage chamber with circumferential reinforcing ribs around and along the elongated body of the tube including at least one smaller rib, thus providing for a sturdy assembly with easy connection, would have constituted an obvious expedient to one having ordinary skill in the art at the time the invention was made as taught by either of Ditullio '482 or Maestro '226.

As for claim 47, the surface of Carswell can be seen as "essentially planar", (i.e., edge portions of each buttress are "essentially planar"). However, applying the Carswell Fig. 6 face to any of the lateral side deck member 36 of any of the liquid dispensing chambers 32, thus preventing excessive loss of water from the unconnected sides of chambers 32, if not already taught by

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Carswell would have been a further obvious expedient to one having ordinary skill in the art at the time the invention was made.

Claims 40-42, 44-46, and 48-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 51 and 52 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
August 19, 2005